

# EXHIBIT M

**HECTOR SAINEZ**  
**SCHIFF vs CITY and COUNTY OF SAN FRANCISCO**

**April 05, 2021**  
**1-4**

| Page 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>1 UNITED STATES DISTRICT COURT<br/> 2 NORTHERN DISTRICT OF CALIFORNIA<br/> 3<br/> 4 Frederick (Ric) Schiff; Glenn Brakel;<br/> 5 Alice Dicroce; Joseph Emanuel; Brian<br/> 6 Greer; Clayton Harmston; Steven Haskell;<br/> 7 Micah Hope; Daniel Kelly; Alexander Lentz;<br/> 8 Brandon McKelley; Gerald Newbeck; David<br/> 9 O'Keefe; Christopher Ritter; Steven Uang<br/> 10 and Thomas Walsh,<br/> 11 Plaintiffs,<br/> 12 Vs. CASE NO. 4:19-cv-03260-YGR<br/> 13 City and County of San Francisco;<br/> 14 Greg Suhr, individually; William (Bill)<br/> 15 Scott, individually; and DOES 1-20,<br/> 16 Defendants,<br/> 17 Defendants,<br/> 18 ~~~~~<br/> 19<br/> 20 DEPOSITION OF<br/> 21<br/> 22 HECTOR SAINEZ<br/> 23<br/> 24 CONDUCTED REMOTELY VIA ZOOM<br/> 25<br/> 26 April 5, 2021<br/> 27 10:08 A.M.<br/> 28<br/> 29 SAN FRANCISCO, CALIFORNIA<br/> 30<br/> 31 Vanessa Harskamp, RPR, CRR, CSR No. 5679</p> | <p>1 I N D E X<br/> 2<br/> 3 WITNESS: HECTOR SAINEZ<br/> 4<br/> 5 EXAMINATION INDEX<br/> 6 BY MR. MULLANAX<br/> 7<br/> 8 INDEX OF EXHIBITS<br/> 9 EXHIBITS<br/> 10 Exhibit 1 Chief of Staff document<br/> 11 Exhibit 2 Q-50 Secondary Criteria<br/> 12 Recommendations Overall Spreadsheet<br/> 13<br/> 14 Exhibit 3 Q-50 Secondary Criteria<br/> 15 Recommendations Spreadsheet for Sainez<br/> 16 Exhibit 4 Q-50 Sergeants Secondary Criteria<br/> 17 Recommendations<br/> 18<br/> 19 Exhibit 5 Q-50 Sergeants Secondary Criteria<br/> 20 Recommendations Name: Sainez<br/> 21 Exhibit 6 Q-60 Lieutenants Secondary Criteria<br/> 22 Recommendations<br/> 23<br/> 24 Exhibit 7 Q-60 Lieutenants Secondary Criteria<br/> 25 Recommendations Name: Sainez<br/> 26 Exhibit 8 Q-60 Lieutenants Secondary Criteria<br/> 27 Recommendations<br/> 28<br/> 29 Exhibit 9 Q-60 Lieutenants Secondary Criteria<br/> 30 Recommendations Name: Sainez<br/> 31 Exhibit 10 Q-80 Captains Secondary Criteria<br/> 32 Recommendations<br/> 33<br/> 34 Exhibit 11 Q-80 Captains Secondary Criteria<br/> 35 Recommendations Name: Sainez</p> |
| Page 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Page 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>1 APPEARANCES OF COUNSEL<br/> 2<br/> 3 For the Plaintiffs Frederick (Ric) Schiff, et al.:<br/> 4 LAW OFFICE OF M. GREG MULLANAX<br/> 5 M. GREG MULLANAX, Esq.<br/> 6 greg@lawmgm.com<br/> 7 2140 N. Winery Avenue, Suite 101<br/> 8 Fresno, California 93703<br/> 9 559.420.1222<br/> 10 559.354.0997 fax<br/> 11<br/> 12 For the Defendants:<br/> 13 PETER A. COWNAN, ESQ.<br/> 14 peter.cownan@sfcityatty.org<br/> 15 CAROLINE PAGE, ESQ.<br/> 16 caroline.page@sfcityatty.org<br/> 17 Office of the City Attorney<br/> 18 1390 Market Street<br/> 19 Fifth Floor<br/> 20 San Francisco, California 94102<br/> 21 415.554.3863<br/> 22 Also present:<br/> 23 Brandon McKelley,<br/> 24 Clayton Harmston<br/> 25 Frederick (Ric) Schiff<br/> 26 Alice Dicroce</p>                                                                                                                                                      | <p>1 INDEX OF EXHIBITS (Continued)<br/> 2 EXHIBITS<br/> 3<br/> 4<br/> 5 Exhibit 12 Q-80 Secondary Criteria<br/> 6 Recommendations Summary Spreadsheet<br/> 7<br/> 8 Exhibit 13 Q-80 Secondary Criteria<br/> 9 Recommendations Summary Spreadsheet<br/> 10 Name: Sainez<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |



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HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
5-8

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| <p style="text-align: right;">Page 5</p> <p>1 SAN FRANCISCO, CALIFORNIA</p> <p>2 MONDAY, APRIL 5, 2021; 10:08 A.M.</p> <p>3</p> <p>4</p> <p>5 HECTOR SAINEZ,</p> <p>6 having been first duly sworn, testified as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q. Good morning, Mr. Sainez. My name is Greg</p> <p>10 Mullanax and I represent the plaintiffs in this lawsuit</p> <p>11 and we are here to take your deposition today. Before</p> <p>12 we get started, could I have you state your full name on</p> <p>13 the record with the spelling, please?</p> <p>14 A. Hector Manuel Sainez, H-E-C-T-O-R,</p> <p>15 S-A-I-N-E-Z.</p> <p>16 Q. Okay. Mr. Sainez, have you been deposed</p> <p>17 before?</p> <p>18 A. No.</p> <p>19 Well, yes. Not in a court deposition, but</p> <p>20 other deposition.</p> <p>21 Q. Okay. I'm just going to go over with you</p> <p>22 pretty quickly the ground rules for the deposition.</p> <p>23 It's essentially just the same as if you were testifying</p> <p>24 in court. Your testimony today is under oath, just as</p> <p>25 if you were testifying in court; do you understand that?</p>                                                                            | <p style="text-align: right;">Page 7</p> <p>1 When did your law enforcement career start?</p> <p>2 A. My law enforcement career began in 1987, when</p> <p>3 I was hired with the San Francisco Sheriff's Department.</p> <p>4 Q. How long were you with the Sheriff's</p> <p>5 Department?</p> <p>6 A. Two-and-a-half years, before I transferred</p> <p>7 over to the San Francisco Police Department.</p> <p>8 Q. Now, when you transferred to the San Francisco</p> <p>9 Police Department, what was your initial job title?</p> <p>10 A. Police officer.</p> <p>11 Q. How long were you a police officer?</p> <p>12 A. I was a police officer for about -- when did I</p> <p>13 get promoted to inspector? I believe eight years. I</p> <p>14 don't have the dates in front of me. Around eight, nine</p> <p>15 years before I was promoted to inspector.</p> <p>16 Q. Now, the inspector position is no longer</p> <p>17 there; is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. What was the difference between an inspector</p> <p>20 and a sergeant?</p> <p>21 A. An inspector was assigned strictly to</p> <p>22 investigative units, such as robbery, burglary, fraud,</p> <p>23 and a sergeant was assigned to duties out in what we</p> <p>24 would call the field or the street, primarily doing</p> <p>25 supervisory duties, or same, same type of duties, but</p> |
| <p style="text-align: right;">Page 6</p> <p>1 A. Yes, I do.</p> <p>2 Q. And also, if -- I am from Texas, so people say</p> <p>3 I talk funny. So if I ask you a question and you don't</p> <p>4 understand it, please let me know and I'll rephrase it.</p> <p>5 A. Yes, I will.</p> <p>6 Q. And if you answer a question and later claim</p> <p>7 you didn't understand it, it will be presumed that you</p> <p>8 understood it because you answered it. So do you</p> <p>9 understand that?</p> <p>10 A. Yes.</p> <p>11 Q. So if you don't understand it, just please let</p> <p>12 us know, it's no problem.</p> <p>13 Also, if you want to take a break for any</p> <p>14 reason, just let us know and we'll take a break. Is</p> <p>15 that understood?</p> <p>16 A. Very well, yes.</p> <p>17 Q. Okay. And if I ask you a question and you</p> <p>18 don't know the answer to it, it's perfectly acceptable</p> <p>19 to say that you don't know. Do you understand that?</p> <p>20 A. I do.</p> <p>21 Q. Okay. We are just here to try to get accurate</p> <p>22 testimony from you today based on what you remember</p> <p>23 about things.</p> <p>24 Now, let me ask you just a little bit about</p> <p>25 your police career.</p> | <p style="text-align: right;">Page 8</p> <p>1 in administrative positions such as admin or at the</p> <p>2 academy and other smaller admin units.</p> <p>3 Q. Now, when you were an inspector, where were</p> <p>4 you assigned?</p> <p>5 A. I was assigned to various units. Night</p> <p>6 Enforcement unit, Night Investigations, Special</p> <p>7 Investigations, Gang Task Force.</p> <p>8 Q. How long were you an inspector?</p> <p>9 A. I was an inspector for, I think, three years</p> <p>10 before I promoted. Well, they are parallel ranks, just</p> <p>11 different duties, but when I promoted to sergeant.</p> <p>12 Q. And how long were you a sergeant?</p> <p>13 A. Let's see, I'm trying to remember. '91 to, I</p> <p>14 believe it was '97-'98. I'm a little -- maybe eight</p> <p>15 years, seven or eight years, I believe. I don't have</p> <p>16 the actual dates in front of me.</p> <p>17 Q. That's okay. What about when you were</p> <p>18 sergeant, did you later promote to lieutenant?</p> <p>19 A. I did.</p> <p>20 Q. And do you recall about when that was?</p> <p>21 A. Like I said I think it was '90, '98. '98 and</p> <p>22 '99, I believe. I don't know, I'm just -- that's long</p> <p>23 ago. I don't remember the exact dates.</p> <p>24 Q. And what was your next position after</p> <p>25 lieutenant?</p>                                     |



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HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
9-12

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| <p style="text-align: right;">Page 9</p> <p>1 A. I was promoted to captain for a day and then<br/>2 promoted to commander.<br/>3 Q. And who promoted you to commander?<br/>4 A. Chief Suhr.<br/>5 Q. Do you remember approximately what year that<br/>6 was?<br/>7 A. I'm trying to think. 2014, I believe it was.<br/>8 Q. And how long were you a commander?<br/>9 A. I was a commander, I believe, for 14 months, I<br/>10 think it was. 15 months. I'm not sure on the dates.<br/>11 Q. And then did you become assistant chief at<br/>12 that point?<br/>13 A. No. Chief Suhr promoted me to deputy chief.<br/>14 Q. Okay. How long were you deputy chief?<br/>15 A. I was the deputy chief for, I'm trying to<br/>16 think now, four years, five years. Four years, I think<br/>17 it was.<br/>18 Q. Do you remember what years those were?<br/>19 Approximately, if you don't know exactly.<br/>20 A. I don't know exactly. I think it was 2014.<br/>21 2014. No, 2013. 2013 to 2017.<br/>22 Q. While you were deputy chief, were you involved<br/>23 in the promotional process at all?<br/>24 A. I was.<br/>25 Q. And what was your involvement in the</p> | <p style="text-align: right;">Page 11</p> <p>1 Department's website, and I just thought it might be<br/>2 easier if I put this in here, but it says here that you<br/>3 were assistant chief at this time?<br/>4 A. Yes.<br/>5 Q. And that you were involved in the Media<br/>6 Relations Unit, Risk Management, Internal Affairs<br/>7 Division, the Legal Division, the Equal Employment<br/>8 Opportunity Unit and the Early Intervention System.<br/>9 Is that information correct?<br/>10 A. I oversaw those offices, yes.<br/>11 Q. Okay. And let me ask you about the Equal<br/>12 Employment Opportunity Unit. What was the function of<br/>13 that unit?<br/>14 A. The EEO unit was primarily to receive and<br/>15 investigate EEO type of complaints. They would work<br/>16 with the City's DHR to process any complaints that came<br/>17 in and forward them and work with DHR on facilitating<br/>18 the investigation of those complaints.<br/>19 Q. Were those -- are those complaints that are<br/>20 brought up within the police department?<br/>21 A. Correct.<br/>22 Q. And then they are investigated along with the<br/>23 Department of Human Resources; is that right?<br/>24 A. They were forwarded to DHR.<br/>25 Q. Okay. Now, how long were you the assistant</p> |
| <p style="text-align: right;">Page 10</p> <p>1 promotional process while you were deputy chief?<br/>2 A. My involvement was to review the secondary<br/>3 criteria of the candidates who were eligible for<br/>4 selection for promotion and submit a recommendation.<br/>5 Q. Okay. And before we get to that point, when<br/>6 were you promoted to assistant chief?<br/>7 A. 2017.<br/>8 Q. And was that by Chief Scott?<br/>9 A. Correct.<br/>10 Q. Okay. Let me -- I want to pull up a -- let's<br/>11 see here. Okay. Can you see that document that I<br/>12 pulled up?<br/>13 A. No.<br/>14 Q. There it comes. Well, now I can't see -- can<br/>15 you see it now?<br/>16 A. Yes.<br/>17 Q. And that's your picture there?<br/>18 A. Yes, it is.<br/>19 MR. MULLANAX: Okay. I'm going to mark this<br/>20 as Exhibit 1.<br/>21 (Plaintiff's Exhibit 1 marked for<br/>22 identification)<br/>23 BY MR. MULLANAX:<br/>24 Q. And I'm just going to tell you what I did is I<br/>25 got this off the Internet from the San Francisco Police</p>                                                                                                                 | <p style="text-align: right;">Page 12</p> <p>1 chief?<br/>2 A. Two years.<br/>3 Q. And did you retire after that?<br/>4 A. Roughly two years. Don't quote me on the<br/>5 exact dates, but about two years, yes.<br/>6 Q. Do you remember your retirement date?<br/>7 A. It was May of 2019.<br/>8 Q. Okay. Now, regarding the promotional process,<br/>9 you said something earlier that you were involved in<br/>10 reviewing the secondary criteria for applicants for<br/>11 promotions; correct?<br/>12 A. Yes.<br/>13 Q. Can you tell us a little bit about the<br/>14 promotional process, like once the scores are rendered,<br/>15 I guess, and you have a list, and y'all request<br/>16 secondary criteria from all of the candidates; is that<br/>17 correct?<br/>18 A. So when you say that the scores, you mean,<br/>19 once an eligible list is adopted?<br/>20 Q. Yes. In fact, let's talk about that. What is<br/>21 an eligible list?<br/>22 A. An eligible list is a list that is posted by<br/>23 DHR, once an examination has been conducted, and they<br/>24 post a list of candidates who made it through the<br/>25 process and are eligible for selection</p>                                                                                                          |

HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
33-36

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| <p style="text-align: right;">Page 33</p> <p>1 since you compiled this document, the information on</p> <p>2 here is accurate; is that correct?</p> <p>3 A. I believe it is, yes.</p> <p>4 MR. MULLANAX: Okay. Exhibit 4.</p> <p>5 Okay. What we'll mark as Exhibit 5 is --</p> <p>6 starts off with CCSF 8681, and it's a 7-paged document.</p> <p>7 (Plaintiff's Exhibit 5 marked for</p> <p>8 identification)</p> <p>9 BY MR. MULLANAX:</p> <p>10 Q. Do you recognize this document?</p> <p>11 A. I do.</p> <p>12 Q. And what is it?</p> <p>13 A. It is my individual recommendation on the</p> <p>14 candidates that were available for selection.</p> <p>15 Q. And if we compare it with Exhibit 4, it</p> <p>16 appeared to be the second round of sergeants promotions,</p> <p>17 and it started off rank number 17, and Exhibit 5 starts</p> <p>18 off with the same rank, 17. Do you think that this is</p> <p>19 relating to the second round of promotions?</p> <p>20 A. Yes.</p> <p>21 MR. COWNAN: No problem. I was just going to</p> <p>22 object on, to the extent it calls for speculation, but I</p> <p>23 believe Mr. Sainez has responded "yes."</p> <p>24 BY MR. MULLANAX:</p> <p>25 Q. Okay. And I don't want to hold anybody to</p> | <p style="text-align: right;">Page 35</p> <p>1 Q. And then the next page is Emanuel at 48, and</p> <p>2 you checked "yes" for him; do you see that?</p> <p>3 A. I'm sorry. What line did you say he was on?</p> <p>4 Q. He is on number 48.</p> <p>5 A. Yes.</p> <p>6 Q. Joseph Emanuel.</p> <p>7 A. Yes.</p> <p>8 Q. The next page we have, if you look at 56, is</p> <p>9 Daniel Kelly, and you said "yes"; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. And Steven Uang, number 56, also, you checked</p> <p>12 "no" on him; is that right?</p> <p>13 A. That's correct.</p> <p>14 Q. Did you know Steven Uang?</p> <p>15 A. I know of him, but I don't know him. I</p> <p>16 worked, I worked with him at some of the -- at one unit</p> <p>17 shortly and that was it.</p> <p>18 I mean, like I said, I know him, I worked for</p> <p>19 him briefly, but I didn't know him very well.</p> <p>20 Q. Okay. Did you know Micah Hope?</p> <p>21 A. I know who he is, but I don't know him.</p> <p>22 Q. Okay. If we do down next line 57 is David</p> <p>23 O'Keeffe, and you checked "yes" for him; is that right?</p> <p>24 A. That's correct.</p> <p>25 Q. Then a couple more down at number 60, Glenn</p>                                                                 |
| <p style="text-align: right;">Page 34</p> <p>1 that because it's not on there.</p> <p>2 I'm just trying to figure out exactly where it</p> <p>3 is.</p> <p>4 BY MR. MULLANAX:</p> <p>5 Q. The first plaintiff we have in here is Micah</p> <p>6 Hope, on the first page down to 32; do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And then under "yes," you have a question</p> <p>9 mark. What does that mean?</p> <p>10 MR. COWNAN: If you recall.</p> <p>11 THE WITNESS: I don't remember why I put the</p> <p>12 question mark.</p> <p>13 BY MR. MULLANAX:</p> <p>14 Q. So you don't know why you didn't check "no" or</p> <p>15 were you maybe unsure, if you remember?</p> <p>16 A. I don't remember.</p> <p>17 Q. Okay.</p> <p>18 A. Yeah, I don't remember.</p> <p>19 Q. No, I believe you. I don't know, it would be</p> <p>20 tough to remember. I just didn't know if that might</p> <p>21 refresh your recollection.</p> <p>22 Then we go down to the next page, the next</p> <p>23 plaintiff is McKelley at 35 and Lentz at 37, and you</p> <p>24 checked "yes" for both of them; is that correct?</p> <p>25 A. That's correct.</p>                                                                                                          | <p style="text-align: right;">Page 36</p> <p>1 Brakel, you checked "yes" for him?</p> <p>2 A. Correct.</p> <p>3 Q. And then Christopher Ritter at number 63, you</p> <p>4 checked "yes" for him; is that right?</p> <p>5 A. Correct.</p> <p>6 Q. Now, after you prepared these forms, and then</p> <p>7 you prepared the master form, you know, where you put</p> <p>8 everybody else's recommendations on there, you submit</p> <p>9 all that to the chief; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Did you -- did the chief ever meet with y'all</p> <p>12 when he was -- during the promotional process, about</p> <p>13 these candidates?</p> <p>14 A. No.</p> <p>15 Q. So he never sat down with the folks that were</p> <p>16 on that -- who made these decisions here, or made these</p> <p>17 recommendations, he never sat down and talked to y'all</p> <p>18 about why you made certain decisions or anything like</p> <p>19 that?</p> <p>20 A. To my knowledge, no.</p> <p>21 Q. Did you ever have a meeting with Chief Scott</p> <p>22 related to these promotional processes where he</p> <p>23 discussed with you your recommendations?</p> <p>24 MR. COWNAN: Greg, if I can interject, do you</p> <p>25 mean just this round of promotions or at any point?</p> |



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HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
37-40

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| <p style="text-align: right;">Page 37</p> <p>1 BY MR. MULLANAX:</p> <p>2 Q. Well, we can specify this round, but at any</p> <p>3 round. Let me ask you this one.</p> <p>4 On the second sergeants promotion in 2018,</p> <p>5 November of 2018, do you recall meeting with Chief Scott</p> <p>6 and discussing your recommendations for this list?</p> <p>7 A. I remember meeting with Chief Scott, providing</p> <p>8 him with the sheets and all of the material. I don't</p> <p>9 have any recollection of specifically talking about any</p> <p>10 individual candidates.</p> <p>11 Q. Okay. Did you ever in any other promotional</p> <p>12 list that you were assisting in, do you recall ever</p> <p>13 having a conversation with Chief Scott where he asked</p> <p>14 you about any particular individuals or about your</p> <p>15 recommendations?</p> <p>16 A. I do not recall that.</p> <p>17 MR. MULLANAX: Okay. Let's go to, I think I</p> <p>18 might be right here, Exhibit 6?</p> <p>19 MR. COWNAN: Correct.</p> <p>20 (Plaintiff's Exhibit No. 6 was marked for</p> <p>21 identification)</p> <p>22 BY MR. MULLANAX:</p> <p>23 Q. Okay. Exhibit 6 is CCSF 8726, and it is a</p> <p>24 five-paged document.</p> <p>25 Mr. Sainez, do you recognize this document?</p> | <p style="text-align: right;">Page 39</p> <p>1 Q. And the Q-60 means lieutenants; is that</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. And since it is ranked number 1, let's see,</p> <p>5 the first round for lieutenants, I believe, was October</p> <p>6 of 2017; do you think that is about right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And since this document is not dated,</p> <p>9 I'm presuming that this was from that October, 2017</p> <p>10 round because it starts at rank 1. Would you say that's</p> <p>11 accurate, or does that sound good to you?</p> <p>12 A. I believe you are correct.</p> <p>13 Q. Okay. We go back to lieutenants, the first</p> <p>14 plaintiff we see on page 2 is number 17, Brian Greer,</p> <p>15 and you checked "yes" for him; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. And a little bit further down on number 18 is</p> <p>18 Thomas Walsh. You checked "yes" for him, didn't you?</p> <p>19 A. Yes.</p> <p>20 Q. And the same thing with Clayton Harmston at</p> <p>21 number 19?</p> <p>22 A. Yes.</p> <p>23 Q. And then the next page we have the plaintiff</p> <p>24 on there, Alice Dicroce, ranked number 21, and you</p> <p>25 checked "yes" for Alice; is that correct?</p> |
| <p style="text-align: right;">Page 38</p> <p>1 A. Yes, I do.</p> <p>2 Q. And what is it?</p> <p>3 A. This is the Q-60 Lieutenants Secondary</p> <p>4 Criteria Recommendations.</p> <p>5 Q. And this is the, basically the same document</p> <p>6 as was used in the sergeants promotion list; is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And did you put this form together? Is</p> <p>10 this your handwriting?</p> <p>11 A. Yes.</p> <p>12 Q. And as far as you know, as you put it</p> <p>13 together, it is accurate; is that correct?</p> <p>14 A. I believe it to be accurate, yes.</p> <p>15 MR. MULLANAX: Okay. Now I'm going to pull up</p> <p>16 Exhibit 7, which is CCSF 8736, and it's a five-paged</p> <p>17 document.</p> <p>18 (Plaintiff's Exhibit 7 marked for</p> <p>19 identification)</p> <p>20 BY MR. MULLANAX:</p> <p>21 Q. Do you recognize this document?</p> <p>22 A. I do.</p> <p>23 Q. And what is it?</p> <p>24 A. It is the -- my individual Q-60 Secondary</p> <p>25 Criteria Recommendation List.</p>                                                                                                                                                                                                                             | <p style="text-align: right;">Page 40</p> <p>1 A. Correct.</p> <p>2 Q. Okay, now the second round, I believe the</p> <p>3 second round of lieutenants promotions was in November</p> <p>4 of 2018; does that sound about right to you?</p> <p>5 A. It sounds about right.</p> <p>6 MR. MULLANAX: Okay. I'll find the one I want</p> <p>7 to see. I'm pulling up Exhibit No. 8.</p> <p>8 (Plaintiff's Exhibit 8 marked for</p> <p>9 identification)</p> <p>10 BY MR. MULLANAX:</p> <p>11 Q. And that's a document starting off with CCSF</p> <p>12 8773; do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recognize this document?</p> <p>15 A. Yes.</p> <p>16 Q. And what is it?</p> <p>17 A. The Q-60 Lieutenant Secondary Criteria</p> <p>18 Recommendations.</p> <p>19 Q. And did you put together this document?</p> <p>20 A. I did.</p> <p>21 Q. And as far as you know, and the best you can</p> <p>22 remember, this is accurate, your information here?</p> <p>23 A. Well, looking at it now, it looks like I made</p> <p>24 a mistake.</p> <p>25 Q. Really? Where is that?</p>                                                                                                                                                             |



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HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
49-52

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| <p style="text-align: right;">Page 49</p> <p>1 MR. MULLANAX: Okay. Okay. Now I'm going to</p> <p>2 pull up Exhibit 13.</p> <p>3 (Plaintiff's Exhibit 13 marked for</p> <p>4 identification)</p> <p>5 BY MR. MULLANAX:</p> <p>6 Q. And Exhibit 13 is a two-paged document</p> <p>7 starting with CCSF 8841. Do you recognize this</p> <p>8 document?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And what is this?</p> <p>11 A. My individual Q-80 Captains Secondary Criteria</p> <p>12 Recommendations.</p> <p>13 Q. And that's your handwriting on the document;</p> <p>14 is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. The first one we see there ranked number 12 is</p> <p>17 Frederick Schiff, and you checked "yes"; is that</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Okay. Now, regarding the process</p> <p>21 during -- we talked a little bit earlier about did you</p> <p>22 have any communications with Chief Scott during the</p> <p>23 promotional process about any of the, your</p> <p>24 recommendations or anything like that. We just went</p> <p>25 over, I think that was during the sergeants portion I</p>                                                                                                                                                                                                                                                    | <p style="text-align: right;">Page 51</p> <p>1 Q. Okay. And did y'all, in these secondary</p> <p>2 criteria meetings, did y'all ever discuss individual</p> <p>3 candidates?</p> <p>4 A. No.</p> <p>5 Q. Do you know if there was ever a time in the</p> <p>6 promotional process where there was discussions about</p> <p>7 individual candidates and their qualifications or</p> <p>8 anything like that?</p> <p>9 A. No, actually, I made a point that we didn't</p> <p>10 have these discussions, because I wanted to make sure</p> <p>11 each chief, deputy chief or assistant chief can have</p> <p>12 their own, write down their own views, their own</p> <p>13 perspectives based on what they have before them so that</p> <p>14 they would not unconsciously influence somebody by</p> <p>15 making a statement or a discussion.</p> <p>16 What I wanted is each individual to write down</p> <p>17 exactly what they think and feel based on the</p> <p>18 information that they have in front of them provided by</p> <p>19 the candidates, the department, secondary criteria</p> <p>20 spreadsheets and all the other documents.</p> <p>21 Q. Okay. So there was never any discussion as</p> <p>22 far as, you know, about like someone saying, Hey, I used</p> <p>23 to work with Jane Doe over at the Bay View station and</p> <p>24 she did this one time?</p> <p>25 You can't, you know, there was other</p> |
| <p style="text-align: right;">Page 50</p> <p>1 was asking you that.</p> <p>2 But during the lieutenants and during the</p> <p>3 captains portion, did you ever have any discussions with</p> <p>4 Chief Scott about your recommendations?</p> <p>5 A. I don't remember having any specific</p> <p>6 conversations with the chief over any individual</p> <p>7 recommendations.</p> <p>8 Q. Okay. Now, when you talked about earlier I</p> <p>9 think you said that y'all had meetings where you sit</p> <p>10 around with all the other persons that are involved in</p> <p>11 this process and have meetings regarding it. What did</p> <p>12 you call those meetings?</p> <p>13 A. Secondary criteria meetings.</p> <p>14 Q. Yes. Thank you. The secondary criteria</p> <p>15 meetings. What did y'all discuss in there, generally?</p> <p>16 A. So we convened, we sit down. We discuss the</p> <p>17 policies, the rules that apply, the secondary criteria,</p> <p>18 the vacancy announcement and the MOU, all of the</p> <p>19 different documents that are relevant to review, observe</p> <p>20 and consider when we review each candidate's resume</p> <p>21 application secondary criteria, et cetera.</p> <p>22 Q. Now, you referred to the MOU. Is that the</p> <p>23 Memorandum of Understanding between the Police Officers</p> <p>24 Association and the City?</p> <p>25 A. That's correct.</p> | <p style="text-align: right;">Page 52</p> <p>1 discussions like that?</p> <p>2 A. No.</p> <p>3 Q. Okay. Who has -- who made the final decisions</p> <p>4 on promotions during these rounds that we discussed here</p> <p>5 today?</p> <p>6 A. The chief of police.</p> <p>7 Q. And that's Chief Scott?</p> <p>8 A. Well, if I remember correctly, in this suit</p> <p>9 you also named Suhr; right?</p> <p>10 Q. Yes, but I don't have any documents from when</p> <p>11 Suhr was the chief.</p> <p>12 A. So you are talking about these sheets</p> <p>13 specifically, not just the process?</p> <p>14 Q. Exactly, these sheets specifically.</p> <p>15 A. Yes, that would be Chief Scott.</p> <p>16 Q. And Chief Scott, he was appointed chief in</p> <p>17 approximately January of 2017; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Now, did you ever hear Chief Scott ever</p> <p>20 say anything like he made promotional decisions based,</p> <p>21 at least in part, on the applicants gender or race?</p> <p>22 A. I do not recall him -- I do not recall ever</p> <p>23 hearing him say that.</p> <p>24 Q. Were you a member of the POA?</p> <p>25 A. I was.</p>                                                                                                                                                                                                                                |

HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
61-64

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| <p style="text-align: right;">Page 61</p> <p>1 rules allow is that the, with the Rule of Ten scores,<br/>2 all of those candidates in that window under the Rule of<br/>3 Ten scores are eligible for promotion.<br/>4 Q. But do you know what the purpose of the Rule<br/>5 of Ten scores is?<br/>6 A. I do not.<br/>7 MR. COWNAN: Object that it calls for -- the<br/>8 response was "I do not." My objection is that to the<br/>9 extent it calls for speculation.<br/>10 MR. MULLANAX: Yeah, that's why I asked him if<br/>11 he knew what it was for.<br/>12 BY MR. MULLANAX:<br/>13 Q. Is it the same thing, people sometimes in<br/>14 these situations talk about banding. Is the Rule of Ten<br/>15 a form of banding?<br/>16 MR. COWNAN: Same objection. You can answer,<br/>17 sir.<br/>18 THE WITNESS: I do not know.<br/>19 Q. Did you ever have any discussions with Chief<br/>20 Scott about using the Rule of Ten?<br/>21 A. Nothing specific that I can remember, only<br/>22 just I just remember explaining what it meant. But the<br/>23 information that we have, the listing of candidates,<br/>24 that all came from staff services. The listing of<br/>25 eligible candidates came from staff services which, as I</p>             | <p style="text-align: right;">Page 63</p> <p>1 A. Um, it's pretty close, yeah. It would be the<br/>2 day of or the following day that he would notify me.<br/>3 That's when he was ready to release the name of who he<br/>4 selected.<br/>5 Q. So when you are -- and I'm almost finished<br/>6 here, but in the secondary criteria meetings when you<br/>7 were reviewing the secondary criteria, do you also have<br/>8 the applicants' disciplinary files handy?<br/>9 A. We have a summary sheet handy and available,<br/>10 it's not the exact, the actual file, just a summary<br/>11 sheet.<br/>12 Q. Okay. And that's the one that shows the<br/>13 summary of their disciplinary history?<br/>14 A. That's correct.<br/>15 Q. Okay. I forgot the name of that document.<br/>16 And what was that -- what are you looking for?<br/>17 When you are looking to make a decision on whether to<br/>18 recommend as the candidate moves along in the process,<br/>19 what exactly are you looking for when you are reviewing<br/>20 the secondary criteria, and the discipline and all that<br/>21 stuff?<br/>22 A. What do you mean, like what are we looking<br/>23 for?<br/>24 Q. When you are looking -- when you are reviewing<br/>25 the criteria for you to make your recommendations on</p>                                                                                                                         |
| <p style="text-align: right;">Page 62</p> <p>1 understand it, is confirmed by DHR. So whenever there<br/>2 is a number of requisitions, they would say these are<br/>3 the candidates that are eligible for selection.<br/>4 Q. Okay.<br/>5 A. So --<br/>6 Q. I'm sorry, I didn't mean to interrupt.<br/>7 A. And that's what would indicate which<br/>8 candidate's secondary criteria we would review.<br/>9 Q. Now, once you submitted all the information to<br/>10 Chief Scott to consider, he just -- you never had any<br/>11 discussion with Chief Scott during the time period he<br/>12 was making his decision on who to promote; is that<br/>13 correct?<br/>14 A. That's correct. I would give him all the<br/>15 information and then he would decide who he was going to<br/>16 promote.<br/>17 Q. Do you remember how long he would -- it would<br/>18 take him to decide who to promote?<br/>19 A. I don't have an exact date, but it's not<br/>20 something that he decided overnight.<br/>21 Q. Okay. Fair enough. When would you find out<br/>22 about the promotional decisions of Chief Scott?<br/>23 A. When he told me he made his selection.<br/>24 Q. Was that about the time it was announced<br/>25 publicly, or was it --</p> | <p style="text-align: right;">Page 64</p> <p>1 these sheets, is there something that you look for to<br/>2 help you determine whether to say "yes" or "no?"<br/>3 A. When you look at the candidates, for the most<br/>4 part, and I'm only speaking for myself, I can't speak<br/>5 for the other deputy chiefs or assistant chiefs, but you<br/>6 look at the sheets for all -- they are all eligible for<br/>7 selection. If there is something that would exclude<br/>8 them, then that's something that I would note.<br/>9 Q. So are you then -- are you then looking more<br/>10 for is there anything that should exclude them from<br/>11 being recommended?<br/>12 A. Yeah, I mean, obviously you are looking for<br/>13 stronger candidates. You are looking for some who have<br/>14 experience, some who have the training. But looking at<br/>15 the sheet, looking at the eligible list, they are all<br/>16 eligible for selection unless, based on MOU and the<br/>17 other issues that come up that they are not eligible or<br/>18 that they refused, because there are some candidates who<br/>19 withdraw from the process.<br/>20 Q. And how far back can you go in the person's<br/>21 disciplinary history?<br/>22 MR. COWNAN: Same objection, calls for<br/>23 speculation. Go ahead, sir.<br/>24 THE WITNESS: I don't remember. I don't have,<br/>25 I haven't looked at the MOU in several years.</p> |



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HECTOR SAINEZ  
SCHIFF vs CITY and COUNTY OF SAN FRANCISCO

April 05, 2021  
65-68

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| <p style="text-align: right;">Page 65</p> <p>1 BY MR. MULLANAX:</p> <p>2 Q. Well, there's a department bulletin issued on</p> <p>3 January 3rd of 2018, and it is talking about the sworn</p> <p>4 promotional process, and it says that formal reprimands</p> <p>5 without further penalty will not be considered for the</p> <p>6 purpose of promotion after the formal reprimand has been</p> <p>7 in the employee's personnel file for two years. Does</p> <p>8 that sound about right to you?</p> <p>9 MR. COWNAN: Same objection, but you can</p> <p>10 answer.</p> <p>11 THE WITNESS: Again, without reviewing the</p> <p>12 document and the MOU, I can't answer that definitively,</p> <p>13 but it sounds about right.</p> <p>14 BY MR. MULLANAX:</p> <p>15 Q. Now, what is a formal reprimand? What types</p> <p>16 of discipline did the San Francisco Police Department</p> <p>17 administer? Like what is a formal reprimand?</p> <p>18 A. A formal reprimand is a written reprimand that</p> <p>19 they received and it is in their file. There's</p> <p>20 admonishments, there is suspension.</p> <p>21 Q. So can one be suspended without having a</p> <p>22 formal reprimand, or is that just part of the same</p> <p>23 process?</p> <p>24 A. It depends on the severity of the misconduct.</p> <p>25 Q. Okay. All right. Okay. Let me, especially</p>              | <p style="text-align: right;">Page 67</p> <p>1 materials, all the applications, the secondary criteria,</p> <p>2 the relevant IA and our recommendations, and I don't</p> <p>3 recall having any specific discussions about any</p> <p>4 specific candidates.</p> <p>5 MR. MULLANAX: Okay. I think that's all I</p> <p>6 have.</p> <p>7 MR. COWNAN: So, okay.</p> <p>8 MR. MULLANAX: Thank you for coming in today,</p> <p>9 Mr. Sainez.</p> <p>10 THE WITNESS: Thank you for having me.</p> <p>11 MR. MULLANAX: All right.</p> <p>12 MR. COWNAN: We can go off the record.</p> <p>13 MR. MULLANAX: Let's go off the record.</p> <p>14 THE COURT REPORTER: Mr. Cownan, would you</p> <p>15 like a copy of the transcript?</p> <p>16 MR. COWNAN: Yes.</p> <p>17 -oOo-</p> <p>18 (The deposition was concluded at 12:00 P.M.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                                                                                                                                                                                                      |
| <p style="text-align: right;">Page 66</p> <p>1 the first round of deposition -- I mean, not</p> <p>2 depositions, but the promotional rounds that occurred in</p> <p>3 2017, that was the -- just a few months after Chief</p> <p>4 Scott became chief of the police department; is that</p> <p>5 right?</p> <p>6 A. He came in in January, and the promotional</p> <p>7 process was in --</p> <p>8 Q. October?</p> <p>9 A. -- October. So it's more than a few months,</p> <p>10 that's like nine months, ten months in.</p> <p>11 Q. Well, how much familiarity did Chief Scott</p> <p>12 have with the personnel? I know the chief can't know</p> <p>13 everybody, all the sworn officers. But I'm just saying,</p> <p>14 I'm trying to get a sense from you, did he rely -- did</p> <p>15 the chief seek out advice from anybody about some of</p> <p>16 these candidates?</p> <p>17 Because it would seem to me that looking at</p> <p>18 just a bunch of documents, it may be hard to tell one</p> <p>19 from another. Do you know if he reached out to anybody</p> <p>20 to ask about certain candidates?</p> <p>21 A. That's a question you'll have to ask him.</p> <p>22 Q. Okay. So you don't know. But he never asked</p> <p>23 you; is that correct?</p> <p>24 A. Nothing that I can recall. Nothing that I</p> <p>25 remember. And that just, we gave him the, all the</p> | <p style="text-align: right;">Page 68</p> <p>1 REPORTER'S CERTIFICATION</p> <p>2</p> <p>3 I, Vanessa Harskamp, Certified Shorthand</p> <p>4 Reporter in and for the State of California, do hereby</p> <p>5 certify:</p> <p>6 That the foregoing witness was by me duly</p> <p>7 sworn; that the deposition was then taken before me at</p> <p>8 the time and place herein set forth; that the testimony</p> <p>9 and proceedings were reported stenographically by me and</p> <p>10 later transcribed into typewritten form under my</p> <p>11 direction; that the foregoing is a true record of the</p> <p>12 testimony and proceedings taken at that time.</p> <p>13 I further certify that I am not related to any</p> <p>14 of the parties to this action by blood or marriage, and</p> <p>15 that I am in no way interested in the outcome of this</p> <p>16 matter.</p> <p>17 IN WITNESS WHEREOF, I have subscribed my name</p> <p>18 this 12th day of April, 2021.</p> <p>19</p> <p>20</p> <p>21</p> <p>22 <i>Vanessa Harskamp</i></p> <p>23</p> <p>24 VANESSA HARSKAMP, RPR, CRR, CCP, CSR NO. 5679</p> <p>25</p> |



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